1559

SUPREME COURT OF THE UNITED STATES.

No. 161.

NATHANIEL T. EDSON, APP'T.

vs.

A. C. YOUNG.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

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Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

Transcript.

CASE OF NATHANIAL T. EDSON
vs.
Dr. A. C. YOUNG. } No. 2,708.

Bill of Complaint.

Filed 24th Jan'y, 1857.

To the honorable the fifth circuit court of the United States in and for the eastern district of Louisiana, in chancery:

Humbly complaining, showeth your orator, Nathanial T. Edson, a citizen of New Orleans, State of Louisiana, that as your orator is informed and verily believes, Gustavus L. Hausskuecht, of the city and county of New Haven, State of Connecticut, was the original and first inventor of a new and useful improvement of running gear of carriages and other vehicles, which was not known nor used before his said invention thereof; and that having perfected his said invention, and complied with all the requirements of law, he applied to the proper officers of the United States for letters patent, which were granted and issued to him on the thirteenth day of January, one thousand eight hundred and fifty-two, signed by Alexander H. Stewart, Secretary of the Interior, and Thomas Eubanks, Commissioner of Patents, in which letters patent the said invention is described as "a new and useful improvements of running gear for carriages," and is fully explained and illustrated by the specifications and drawings that accompanied the application of said Hausskuecht for letters patent, a certified copy of which letters patent, specifications, and drawings, are presented as exhibit A, and on file in this honorable court in the suit brought by your orator, and entitled Nathanial T. Edson vs. Auguste Loez and wife, No. 2,539 of the docket of the court, and are now referred to for further explanation hereof.

Your orators showeth, that said letters patent secured to said Hausskuecht, his heirs, administrators, and assigns, for the term of fourteen years, from the said 13th January, 1852, the full and exclusive right and liberty of making, using, and vending to others to be used, the said improvement of running gear of carriages, and making thereby a profit to himself by the sale thereof, and that he retained the exclusive possession

and control thereof, as your orator is informed and verily believes.

Your orator further showeth, that the said Gustavus L. Hausskuecht, having the exclusive possession and control, and never having parted therewith, as your orator is informed and believes, on or about the tenth day of February, one thousand eight hundred and fifty-four, by certain instrument in writing signed by the said Hausskuecht with his own proper hand, for a good and valuable consideration by him received, did assign, sell, and set over unto your orator a part of his right, title, and interest in and to his said invention and exclusive right thereto, secured to him as aforesaid by the said letters patent, to wit: "All the right, title, and interest of the said Hausskuecht in the said invention as secured to him by said letters patent, for, to, and in the city of New Orleans, State of Louisiana," which written instrument of assignment was duly and properly recorded at the proper office of the city of Washington, on the eighteenth day of March, one thousand eight hundred and fifty-four, according to law. And whereas, doubts arose as to the construction to be given to said instrument of assignment, the said Hausskuecht did execute another instrument, bearing date the thirty-first day of July, one thousand eight hundred and fifty-five, confirming the previous instrument, and fully declaring that it was his intention to, and that he did assign to your orator the exclusive right to use the said invention to the exclusion of all persons whomsoever in and for the said city of New Orleans, which said instrument was also duly received in the proper office at the city of Washington, on the fourth day of August, one thousand eight hundred and fifty-five; all of which will more fully appear by reference to said original assignment and said subsequent confirmation thereof, and certificates of the Commissioner of Patents inscribed thereon, respectively presented and on file in said suit against Leoz and wife, No. 2,539, as exhibits B. and C., by which your orator became seized and possessed of all the full and exclusive right granted by said letters patent to said Hausskuecht, to make, construct, use, and vend to others to be used, the said improvement of running gear of carriages, within the limits of the said city of New Orleans, whereby he hoped to make a reasonable profit without his right being infringed upon, or having molestation or hindrance therein by any person whomsoever, and that he should have enjoyed the sole benefit and right to the said invention within the said limits, without any encroachment thereon, as in justice and equity ought to have been the case.

But now, so it is, that Dr. A. C. Young, a citizen of the city of New Orleans, State of Louisiana aforesaid, combining and confederating with divers persons, at present unknown to your orator, whose names, when discovered, your orator prays he

may be at liberty to insert herein with apt words to charge them as parties defendants hereto, and contriving how to wrong and injure your orator in the premises, the said defendant contriving how to deprive plaintiff of the gains and profits which he was and is entitled to have and receive from the sale and exclusive making, constructing, using, and vending to others to be used, the said improvement of running gear of carriages the said defendant is engaged in using, and has used carriages with the said improved running gear, invented by the said Gustavus L. Hausskuecht as aforesaid, and is engaged in using the said carriages with the said improvement of running gear first invented by the said Hausskuecht as aforesaid, within the limits of the said city of New Orleans, to the great injury and prejudice of plaintiff.

Plaintiff charges, and so the truth is, to the best of his knowledge and belief, that the said defendant has no color of right to use the said invention of the said Hausskuecht, and that the right to make, construct, use, and vend to others to be used, carriages with the said improved running gear, within the city of New Orleans, has never been assigned by said Kausskuecht, nor in any manner by him granted to any one except to your orator as aforesaid, and that he alone, by virtue of said assignment, has the right to make, construct, use, and vend to others to be used, carriages with said improved running gear, within the limits of the said city of New Orleans, for his own benefit and advantage. That the said defendant has used carriages with said improved running gear in the said city of New Orleans, for his own benefit and advantage, and he threatens that he will continue to use in said city, carriages with said improved running gear, or cause the same to be done for his own benefit and advantage, as he shall think proper; and, notwithstanding the said Dr. A. C. Young has been requested to desist from such proceedings, and to account with plaintiff for the profits and advantages which have been received and enjoyed by him from the use of such improved running gear, he refuses so to do. All of which actings, doings, and refusals, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator in the premises.

In consideration whereof, and for as much as your orator can only have adequate relief in the premises in a court of equity where matters of this kind are properly cognizable and reliable; to the end, therefore, that the said Dr. A. C. Young and his confederates, when discovered, may, upon their several and respective corporal oaths, to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, and perfect answers make to all and singular the matters aforesaid, and that as fully and particularly as if the same were here repeated, and they and every of them dis-

tinctly interrogated thereto; and that the said defendant may be deemed to account for and pay to plaintiff all such gains and profits as have accrued or arisen, or been got in and received by him, or which may be got in by said defendant or by any persons in trust for him, or to his use by the use of the said improvement of running gear, or of carriages with said improved running gear; and that the said defendant may be restrained by the injunction of this honorable court from using, or *or* from vending to others to be used, the said improvement of running gear of carriages, and from using or vending to others to be used, carriages with said improved running gear, within the city of New Orleans, and that the plaintiff may have his costs of this suit, and may have such further or other relief in the premises as to your honorable court may seem meet, and the nature and circumstances of this case may require.

May it please your honorable court to grant unto your orator not only the writ of injunction issuing from this honorable court, to be directed to the said Dr. A. C. Young to restrain him from all further infringment upon the rights of your orator as hereinbefore set fourth, and particularly from using and vending to others to be used, the improvement of running gear of carriages invented by said Gustavus L. Hausskuecht, and secured by letters patent, issued to him on the 13th January, 1852, within the limits of the city of New Orleans, but that the subpœna of this honorable court be directed to said Dr. A. C. Young, thereby commanding him at a certain day, and under a certain pain therein to be limited, personally to be and appear in this honorable court, and then and there full, true, and perfect answers make to all and singular the premises; and further, to perform and abide such further order, direction, and decree therein, as shall seem meet, and that the injunction that may issue herein may, after all due proceedings and hearing shall be had, be made perpetual.

And as in duty bound your orator will ever pray, &c.

T. A. BARTLETTE,
Solicitor.

Nathaniel T. Edson, being duly sworn, declares and says, that the facts set forth in the above and foregoing bill of complaint, as of his own knowledge, are true, and those set forth as not of his own knowledge, he believes to be true.

(Signed) NATH'L T. EDSON.

Sworn to and subscribed at New Orleans, this 24th January, 1857, before

ROB'T M. LUSHER,
U. S. Com'r, East. Dist. of La.

Exhibit A to bill.

Hausskuecht's Patent.—No. 8,648.

The United States of America, to all to whom these letters patent shall come:

Whereas Gustavus L. Hausskuecht, of New Haven, Conn., has alleged that he has invented a new and useful improvement of running gear of carriages, which he states has not been known or used before his application; has made oath of his intention to become a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid unto the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

These are therefore to grant, according to law, to the said Gustavus L. Hausskueckt, his heirs, administrators or assigns, for the term of fourteen years from the thirteenth day of January, one thousand eight hundred and fifty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Hausskuecht in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed. Given under my hand at the city of Washington, this thirteenth day of January, in the year of our Lord one thousand eight hundred and fifty-two, and of the independence of the United States of America the *the* seventy-sixth.

ALEX'R H. H. STUART,
Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.

[SEAL.] THOS. EWBANK,
Commissioner of Patents.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

Be it known, that I, Gustavus L. Hausskuecht, of the city

and county of New Haven, State of Connecticut, have invented certain new and useful improvements in the running gear of carriages or other vehicles, and I do hereby declare that the following is a full, clear, and exact description of the same, reference being had to the accompanying drawings forming part of this specification, in which—

Fig. 1 is a side elevation of a carriage.
Fig. 2 is a front view of the fore axle, and part belonging thereto.
Fig. 3 is a front view of a fore axle with its parts, and shows how to apply my improvement to such carriages, where the spring is fastened to the axle, and moving with the same.
Fig. 4 is half a bottom view of the carriage.
Fig. 5 is a side elevation of a two-horse carriage with perch.
Fig. 6 half a bottom view of the same.
Fig. 7 is a side elevation of a carriage without a perch.
Fig. 8 is half a bottom view of the same.
Fig. 9 is a side elevation of an omnibus.
Fig. 10 is half a bottom view of the same.

The same letters denote the same parts in each of the different figures. To enable others skilled in the art to make and use my invention, I will proceed minutely to *discribe* it.

Figs. 1, 2, 3, and 4 A are two segments, to the upper one of which (A 1) are fastened two hooks, C C, projecting over the edge of the other one, serving as stoppers, and preventing from separating; the pivot (b 1) is welded to the perch plate, which forms an arm of the segment, and is fastened to the perch k, and (b 1) placed some distance behind the fore axle. The under one, a, is fastened to the axle, i; b is the center of the segment, or an eye of the arm attached to the segment, which couples the axle to the carriage at b. At fig. 2 the upper segment is fastened to the head block l and spring m, which slide upon the lower one; in fig. 3 the head block is dispensed with; the spring m fastened to the axle i, and moving with the same; therefore it requires two additional segments D; their center is placed perpendicularly above the pivot b; the top of the spring m is fastened to a traversing segment, d.

The mode of construction shown at figs. 5 and 6 is nearly the same as described above, only the carriages with stiff poles require full circles or plates, called fifth wheels, shown at A; the perch plate, with the pivot welded thereto at b 1, is attached to the fore part of the fifth wheel, (a 1,) and slides upon the lower one, (a,) which, with an additional block g, is fastened to the turning part. C is the center of the fifth wheel and of the additional block. Said block g is placed some distance behind the fore axle, (through whose center the key bolt now com-

monly passes,) and attached to the furchils, extending further back, for the purpose of fastening the hind part of the fifth wheel, a, whose fore part is fastened to the axle, i; one of the furchils is shown at h; the turning part is coupled to the carriage at b.

It will be seen, that by operating with any improvement the wheels revolving on the axle resting on the ground, will move the body to one side out of the center of the axle, and widen the space between wheel and body on the turning side, on which side the wheels are brought nearer together, and widened more on the other side, and, of course, the wheels must describe a smaller circle in turning.

With carriages or other vehicles, constructed as above described, for the purpose of allowing the same to be turned in a smaller circle or space, the wheels may be made of the largest diameter desired, without the fore wheels rubbing the body, or running under the same. I do not claim the separate use of one segment, on which the end of the perch rests; neither do I claim two pivots attached to the body; but what I do claim as my invention, and desire to secure by letters patent, is—the placing the pivot in the rear of the forward axle in combination with the two sets of segments or circles, viz: Segments A and segments D, seen at fig. 3, or their equivalents, substantially as above described.

In testimony whereof, I hereto subscribe my name in presence of two witnesses.

(Signed) GUSTAVUS L. HAUSSKUECHT.

Witnesses:

JULIUS H. KROCHL,
JNO. AEANES.

For drawings see originals, pages 11 and 12.

The United States Patent Office.

To all persons to whom these presents shall come, greeting:

This is to certify, that the annexed is a true copy from the records of this office of letters patent issued to Gustavus L. Hausskuecht, on the thirteenth day of January, eighteen hundred and fifty-two.

In testimony whereof, I, Charles Mason, Commissioner of Patents, have caused the seal of the Patent office to [SEAL.] be hereunto affixed, this twenty-second day of March, in the year of our Lord one thousand eight hundred and fifty-two, and of the independence of the United States of the seventy-eighth.

(Signed) C. MASON.

Exhibit B to bill.

Assignment to Edson.

NEW HAVEN, *February* 10*th*, 1854.

Whereas I, Gustavus L. Hausskuecht, in the city of New Haven, State of Connt., did obtain letters patent of the United States for certain improvements in carriages, which letters patent bears date the sixteenth day of December, 1851, and the thirteenth day of January, 1852, and whereas Nathaniel T. Edson, of the city of New Orleans, State of Louisiana, is desirous of acquiring an interest therein: Now, this indenture witnesseth, that for and in consideration of the sum of fifty dollars, to me in hand paid, the receipt of which is hereby acknowledged, and the sum of two hundred dollars, in six months from date of this indenture; if which two hundred dollars is not paid when due, this sale shall be null and void, and the cash forfeited. I have assigned, sold, and set over, and do hereby assign, sell, and set over, unto the said Nathaniel T. Edson, all the right, title, and interest which I have in the said invention, as secured to me by said letters patent, for, to, and in the city of New Orleans, and in no other place or places: the same to be held and enjoyed by the said Nathaniel T. Edson for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

(Signed) GUSTAVUS L. HAUSSKUECHT.

(On the margin,)
Witness:
SEWETT STEPHENE,
GEO. K. HAPPIN.

(Endorsed.)

United States Patent Office.

Received, Feb. 28th, and recorded 18th March, 1854, in liber F 3, page 6, of transfers of patent rights. In testimony whereof I have caused the seal of the Patent office to be hereunto affixed.

(Signed) C. MASON, [SEAL.]
D. P. *Commissioner of Patents.*

Exhibit C to bill.

Assignment to Edson.

Whereas I, Gustavus L. Hausskuecht, of the city of New

Haven, State of Connecticut, did obtain letters patent of the United States for certain improvements in carriages, which letters patent bear date the sixteenth day of December, 1851, and the thirteenth day of January, eighteen hundred and fifty-two; and whereas Nathaniel T. Edson, of the city of New Orleans, State of Louisiana, desired to acquire an interest therein; and whereas I executed an instrument of assignment to said Nathaniel T. Edson of a portion of my interest in the said letters patent, which instrument of assignment was executed and signed by me, and dated New Haven, February 10th, 1854, and is substantially as follows, to wit: "Whereas I, Gustavus L. Hausskuecht, in the city of New Haven, State of Connt., did obtain letters patent of the United States for certain improvements in carriages, which letters patent bear date the sixteenth day of December, 1851, and the thirteenth day of January, 1852; and whereas Nathaniel T. Edson, of the city of New Orleans, State of Louisiana, is desirous of acquiring an interest therein: now this indenture witnesseth, that for and in consideration of the sum of fifty dollars, to me in hand paid, the receipt of which is hereby acknowledged, and the sum of two hundred dollars, in six months from date of this indenture, (if which two hundred dollars is not paid when due, this sale shall be null and void, and the cash forfeited,) I have assigned, sold, and set over, and do hereby assign, sell, and set over unto the said Nathaniel T. Edson all the right, title, and interest which I have in the said invention, as secured to me by the said letters patent for, to, and in the city of New Orleans, and in no other place or places. The same to be held and enjoyed by the said Nathaniel T. Edson for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term which the said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made," &c.

And whereas doubts have arisen in the construction of said instrument as to the extent and nature of the interest conveyed and intended to be conveyed thereby; and whereas it was the intention and understanding of me, the said Gustavus L. Hausskuecht, and the said Nathaniel T. Edson, that I should and had conveyed to him the said Edson the full and entire and exclusive right to said inventions secured to me by the said letters patent for and in the said city of New Orleans.

Now, therefore, for the purpose of putting an end to any and all doubts in relation thereto, and to enable the said Nathaniel T. Edson to have and enjoy the said patents for the sale and exclusive use of himself, his heirs, administrators, executors, and assigns, to the extent intended, be it hereby known and remembered, that I, the said Gustavus L. Hausskuecht, of the city and State hereinbefore written, for and in

consideration of the sums paid and to be paid, as recited in the aforesaid instrument of assignment, have assigned, sold, and set over, and do by these presents hereby assign, sell, convey, and set over unto the said Nathaniel T. Edson, of the city of New Orleans, all the right, title, and interest which I had or have in the said inventions as secured to me by the said letters patent for, to, and in the city of New Orleans, and no other place or places, giving and granting unto the said Nathaniel T. Edson, his heirs, administrators, executors, and assigns the full, entire, and exclusive right to use, hold, and enjoy the said inventions to their own proper use and behoof for the full term for which said letters patent are or may be granted, hereby giving to the said Nathaniel T. Edson the right of using the said inventions and of assigning the right to use the same in whole or in part within the said city of New Orleans, to the exclusion of all other persons whatever, as fully, entirely, and exclusively as the same would have been held and enjoyed by me had this assignment and sale not been made.

In faith whereof, I have hereunto set my hand this 31st day of July, 1855, one thousand eight hundred and fifty-five, at the city of New Haven, State of Connecticut, in presence of the witnesses who have hereunto signed their names.

(Signed) G. L. HAUSSKEUCCHT.

Witness:

HENRY IVES,

R. FITHZARALD.

(Endorsed.)

Ex'd, C. E. U.

United States Patent Office.

Received Aug't 4th, 1855, and recorded in liber R 3, page 339, of transfers of patent rights. In testimony whereof, I have caused the *the* seal of the Patent office to be hereunto affixed.

[SEAL.] S. T. SHUGET,
Act'g Com'r of Patents.

Notice of application for injunction, and Marshal's return.

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

November Term, A. D. 1856.

New Orleans, Saturday, 24th day of January, 1857. Court met, pursuant to adjournment. Present, the honorable Theo. H. McCaleb, district judge. Absent, the honorable J. A. Campbell, presiding judge.

In Chancery.

NATHANIEL T. EDSON
vs.
Dr. A. C. YOUNG. } No. 2,708.

The complainant this day moved the court to fix some day for hearing the application made by him in his bill of complaint for an injunction against the defendant in this case. Wherefore it was ordered that the said application be assigned for hearing for Wednesday, the 28th instant, at 10 o'clock A. M., and that the defendant be notified thereof.

CLERK'S OFFICE:

I certify the foregoing to be a true copy from the original record in this office.

Witness my hand and seal of said court, at the city of New [SEAL.] Orleans, this 24th day of January, A. D. 1857.

J. W. GURLEY,
Clerk.

By W. LAVISSON,
Dep. C'k.

(Endorsed.)

Marshal's Return.

Received this 24th day of January, 1857, and on the 24th day of January, 1857, served copy of the same on Dr. A. C. Young, in the manner following, to wit: by handing the same to Dr. A. C. Young in person, in the city of New Orleans, and ret'd January 26th, 1857.

JAMES GILLAN,
D'y U. S. M.

Minutes.

November Term, 1856.

New Orleans, Wednesday, 28th January, 1857. Court met, pursuant to adjournment. Present, Hon. Theo. H. McCaleb, district judge. Absent, Hon. J. A. Campbell, presiding judge.

N. T. EDSON
vs.
A. C. YOUNG. } 2,708.

N. T. EDSON
vs.
E. ADLER. } 2,709.

The applications herein made by the complainant, for an in-

consideration of the sums paid and to be paid, as recited in the aforesaid instrument of assignment, have assigned, sold, and set over, and do by these presents hereby assign, sell, convey, and set over unto the said Nathaniel T. Edson, of the city of New Orleans, all the right, title, and interest which I had or have in the said inventions as secured to me by the said letters patent for, to, and in the city of New Orleans, and no other place or places, giving and granting unto the said Nathaniel T. Edson, his heirs, administrators, executors, and assigns the full, entire, and exclusive right to use, hold, and enjoy the said inventions to their own proper use and behoof for the full term for which said letters patent are or may be granted, hereby giving to the said Nathaniel T. Edson the right of using the said inventions and of assigning the right to use the same in whole or in part within the said city of New Orleans, to the exclusion of all other persons whatever, as fully, entirely, and exclusively as the same would have been held and enjoyed by me had this assignment and sale not been made.

In faith whereof, I have hereunto set my hand this 31st day of July, 1855, one thousand eight hundred and fifty-five, at the city of New Haven, State of Connecticut, in presence of the witnesses who have hereunto signed their names.

(Signed) G. L. HAUSSKEUCCHT.

Witness:

HENRY IVES,

R. FITHZARALD.

(Endorsed.)

Ex'd, C. E. U.

United States Patent Office.

Received Aug't 4th, 1855, and recorded in liber R 3, page 339, of transfers of patent rights. In testimony whereof, I have caused the *the* seal of the Patent office to be hereunto affixed.

[SEAL.] S. T. SHUGET,

Act'g Com'r of Patents.

Notice of application for injunction, and Marshal's return.

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

November Term, A. D. 1856.

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In Chancery.

NATHANIEL T. EDSON
vs.
Dr. A. C. YOUNG. } No. 2,708.

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CLERK'S OFFICE:

I certify the foregoing to be a true copy from the original record in this office.

Witness my hand and seal of said court, at the city of New
[SEAL.] Orleans, this 24th day of January, A. D. 1857.

J. W. GURLEY,
Clerk.

By W. LAVISSON,
Dep. C'k.

(Endorsed.)

Marshal's Return.

Received this 24th day of January, 1857, and on the 24th day of January, 1857, served copy of the same on Dr. A. C. Young, in the manner following, to wit: by handing the same to Dr. A. C. Young in person, in the city of New Orleans, and ret'd January 26th, 1857.

JAMES GILLAN,
D'y U. S. M.

Minutes.

November Term, 1856.

New Orleans, Wednesday, 28th January, 1857. Court met, pursuant to adjournment. Present, Hon. Theo. H. McCaleb, district judge. Absent, Hon. J. A. Campbell, presiding judge.

N. T. EDSON
vs.
A. C. YOUNG. } 2,708.

N. T. EDSON
vs.
E. ADLER. } 2,709.

The applications herein made by the complainant, for an in-

junction against the defendants in these cases, having *be* assigned for hearing this day, were called up. Whereupon, by consent of parties, it was continued to Monday next.

Affid't of A. Newport.

Filed by Comp't, 28th January, 1857.

NATHANIEL T. EDSON
vs.
Dr. A. C. YOUNG.

Same
vs.
Dr. E. ADLER.

Allison Newport, being duly sworn, declares that he has seen the carriage used by Dr. Young, and also that used by Dr. Adler, the defendants in the above entitled cases, and has also examined the specifications and drawings annexed to Hausskuecht's patent, explanatory thereof, and finds that the running gear of both Dr. Young's and Dr. Adler's carriage is constructed according to Hausskuecht's patent, as shown by the said specifications and drawings. In both the king bolt on which the forward axle turns is placed in the rear of the said axle.

(Signed) ALLISON NEWPORT.

Sworn to and subscribed before me, on this the 28th day of January, A. D. 1857.

(Signed) W. LAVISSON,
Deputy Clerk U. S. Circuit Court,
East. Dist. of La.

Affidavit of J. Theobald.

Filed by Comp't, 31st January, 1857.

U. S. circuit court, eastern district of La.

NATH'L T. EDSON
vs.
Dr. A. C. YOUNG.

Same
vs.
Dr. E. ADLER.

John Theobald, being duly sworn, says he is a carriage-maker; has seen the carriage now used by Dr. Young, also the

one used by Dr. Adler, the defendants in the above entitled cases. He has also examined the specifications and drawings annexed to the letters patent granted to Gustavus L. Hausskuecht, and explanatory thereof; has worked on carriages having Hausskuecht's improvement connected therewith; knows it when he sees it; the carriages of Drs. Young or Adler are both on Hausskuecht's plan.

JOHN THEOBALD.

Sworn to and subscribed before me, on this the 31st day of January, A. D. 1857.

W. LAVISSON,
Dep. Clerk of U. S. Circuit Court,
East. Dist. of La.

Affidavit of J. C. Simpson.

Filed by Comp't, 31st January, 1857.

U. S. circuit court, eastern district of La.

NATHANIEL T. EDSON
vs.
Dr. A. C. YOUNG.

Same
vs.
Dr. E. ADLER.

John C. Simpson, being duly sworn, says he is a carriage-maker; has been engaged in that business about twenty years; has seen the carriage now used by Dr. Young, also the one used by Dr. Adler, the defendants in the above entitled cases. He has also examined the specifications and drawings annexed to the letters patent granted to Gustavus L. Hausskuecht, and explanatory thereof; has repaired several carriages with the running gear, patented to Hausskuecht; knows in what it consists, its peculiarities, &c.; knows it when he sees it; the carriages of Drs. Young and Adler both have it.

(Signed) JNO. C. SIMPSON.

Sworn to and subscribed before me, on this the 31st day of January, A. D. 1857.

W. LAVISSON,
Dep. C'k of the U. S. Circuit Court
East. Dist. of La.

Affidavit of John Roche.

Filed by Compl't, Jan'y 31st, 1857.

U. S. circuit court, eastern district of La.

NATHANIEL T. EDSON
vs.
Dr. A. C. YOUNG.

Same
vs.
Dr. E. ADLER.

John Roche, being duly sworn, says he is a carriage-maker; has seen the carriage now used by Dr. Young, also one used by Dr. Adler, the defendants in the above entitled cases. He has also examined the specifications and drawings annexed to the letters patent granted to Gustavus L. Hausskuecht, and explanatory thereof; knows in what it consists, its peculiarities, &c.; knows it when he sees it; the carriages of Drs. Young and Alder both have it.

JOHN ROCHE.

Sworn to and subscribed before me, on this the 31st day of January, A. D. 1857.

W. LAVISSON,
Dep. C'k of U. S. Circuit Court,
East. Dist. of La.

Affidavit of R. Bein.

Filed by Def'dt, Jan'y 31st, 1857.

U. S. circuit court.

N. C. EDSON
vs.
Dr. A. C. YOUNG.

In Chancery.

Richard Bein, being duly sworn, deposeth and saith, that he is a physician; has resided in New Orleans, and practiced as such over twenty years. That on the 3d day of January, 1852, he bought of J. March Denman, carriage dealers of this city, a four-wheeled carriage or phaeton, having on the running gear a set of segments on the front axle, with a king bolt placed in the rear of the axle upon which the carriage moved, embracing

the same improvements for facilitating a turning, as he has now in use for a phaeton purchased from the same; declares all the improvement in the running gear is now on the phaeton of Dr. Young.

(Signed) R. BEIN.

Sworn to and subscribed before me, on this the 31st day of January, A. D. 1857.

W. LAVISSON,
Dep. Clerk U. S. Circuit Court,
East. Dist. of La.

Affidavit of J. E. Matthews for Defendant.

Filed 2d Feb'y, 1857.

U. S. Circuit Court.

NATHANIEL T. EDSON
vs.
Dr. A. C. YOUNG. } No. 2,708.

J. E. Matthews, being duly sworn, deposeth and saith, that he is a carriage-maker; that he has examined the running gear of the defendant's phaeton; that it has a single set of segments attached to the front axle, the center of motion being behind the axle, and is like the model now before the witness; that he has examined the specifications to Hausskuecht's patent; that there is no such combination in the carriage of defendant as that mentioned, as claimed by Hausskuecht; that deponent made a phaeton with the running gear like the model before him, in principle, in the fall of 1851, and sold it in February following; that it has been in use every since.

(Signed) J. E. MATTHEWS & CO.

Sworn to and subscribed before me this 2d day of Feb'y, 1857.

M. M. COHEN,
U. S. Com.

Affidavit of L. Bein.

Filed by Def'dt, 2d Feb'y, 1857.

U. S. circuit court.

N. T. EDSON
vs.
Dr. A. C. YOUNG.

Louis Bein, being duly sworn, deposeth and saith, that he is

a carriage-maker; that he saw, made, and was engaged in making running gear like that on the model before him, marked "M. M. C. U. S. Cr.," in 1851.

(Signed) LOUIS BEIN.

Sworn to and subscribed before me this 2d day of February, 1857.

M. M. COHEN,
U. S. Cr.

Affidavit of J. M. Denman.

Filed by Def'dt, 2d Feb'y, 1857.

U. S. circuit court.

NATHANIEL T. EDSON
vs.
Dr. A. C. YOUNG. } No. 2,708.

J. March Denman, being duly sworn, says that he has been a dealer in carriages until within the last year for many years; that he is familiar with the gearing and running part of carriages; that he sold the defendant the phaeton which he drives; that the running part thereof is composed of a single set of segments attached to the perch and fore axle; that there is no other set of segments; that the said gearing of said defendant's phaeton does not infringe upon the patent right claimed by plaintiff, as set forth in the schedule annexed to their letters; that said phaeton has not a combination, as stated in the language of defendant's rights, as annexed to the patent to Hausskuecht; the pivot in the rear of the forward axle in combination with the two set of segments—or circles on segments—A. & D., seen at fig. 3, or their equivalents; that the gearing and segments as used in defendant's phaeton, have long been in use in this city and other carriages; that deponent, long before the date of the letters patent to said Hausskuecht, made and used in the running gear of carriages a segment like that on defendant's phaeton, involving the same principle; that since that time he has sold large numbers of carriages, having a single set of segment, whose centre of movement is placed behind the fore axle, which were manufactured in New Jersey by various manufacturers, under a patent right to one Everett, of anterior date to said Hausskuecht's; that, as deponent believes, the right of said Hausskuecht's is a combination which requires the use of said Everett's improvement, and he verily believe that from an examination of the schedule annexed to the letters patent of said Hausskuecht's in comparison with defendant's phaeton, the court cannot fail at once to perceive

that the combination, claimed as patented by said Hausskuechts, does not exist in said defendant's phaeton; that deponent's firm with which he was connected at the time of the sale of the phaeton to defendant, held a license to manufacture or cause to be manufactured in the State of New Jersey, gearing under the patent of Everitt; that he has not now a copy of said patent and its schedule, but has written to procure the same.

(Signed) J. MARCH DENMAN.

Sworn to and subscribed before me this 27th Jan'y, 1857.
(Signed) J. W. GURLEY.

Minutes.—Submission of Application.

November Term, 1856.

New Orleans, Monday, 2d February, 1857. Court met, pursuant to adjournment. Present, Hon. Theo. H. McCaleb, district judge. Absent, Hon. J. A. Campbell, presiding judge.

N. T. EDSON
vs. } 2,708.
A. C. YOUNG.

The application herein made by the complainant for an injunction came on to be heard, and after argument of counsel was submitted to the court and taken under advisement.

Demurrer filed by consent.

Filed 22d May, 1857.

(Endorsed.)

Filed by consent as if no answer had been filed.
(Signed) T. A. BARTLETTE,
For Compl't.

To the honorable the judges of the circuit court of the United States, in and for the eastern district of Louisiana, in chancery, and setting:

The demurrer of A. C. Young, defendant, to the bill of complaint of Nathaniel T. Edson, complainant.

This defendant, by protestation not conferring or acknowledging all or any of the matters and things in the said complainant's bill to be true, in such manner and form as the same are

therein set forth and alleged, doth demur thereto, and for cause of demurrer, showeth: That the said complainant hath not in and by his said bill made or stated such a case as doth or ought to entitle him to any such discovery or relief as is thereby and sought and prayed for from or against this defendant.

Wherefore, and for divers other errors and imperfections appearing in said bill, this defendant humbly prays the judgment of this honorable court whether he should be compelled to make any further or other answer to the said bill, or any of the matters and things therein contained, and prays to be hence dismissed with his reasonable costs in this behalf sustained.

T. L. BAYNE,
Sol'r.

Opinion of the Court.

Filed 15th June, 1857.

NATHANIAL T. EDSON
vs.
A. C. YOUNG.

The plaintiff instituted this suit for an injunction upon the defendant to restrain his use of an "improvement in the running gear of carriages," in New Orleans, which is covered by the patent of Gustavus L. Hausskuecht, dated in January, 1852, and which was assigned to the plaintiff for the limits of New Orleans, in 1855. The patent and deed of assignment are attached to the bill as exhibits.

The patent describes an arrangement by which carriages may be turned with more facility, and in a smaller space than formerly, and may be useful for that purpose.

But it is *apperent* that the improvement does not form a very material part of the value of the carriage.

The bill does not show that the plaintiff has sustained any specific loss in the disturbance of his right by the defendant, or that he can have any difficulty in ascertaining its precise extent; the bill would be supported by proof of the use of one or more carriages; nor do the averments of the bill show a case in which the remedy at law is inadequate; a fair allowance to the plaintiff for the use of the improvement would probably satisfy his claim.

The courts of chancery are very proper for certain cases of patent right, but in the larger proportion the remedy at law is adequate and complete.

The demurrer must be allowed.

J. A. CAMPBELL,
Ass. Justice S. C. U. S.

Minutes.

Judgment.

April term, 1857.

New Orleans, Monday, 15th June, 1857. Court met, pursuant to adjournment. Present, Hon. Theo. H. McCaleb, district judge. Absent, Hon. J. A. Campbell, presiding judge.

The following decree received from Hon. J. A. Campbell, was ordered to be entered.

N. T. Edson
vs.
A. C. Young. } No. 2,708.

Petition for appeal.

Filed 30th June, 1857.

To the honorable circuit court of the United States, fifth judicial circuit in and for the eastern district of Louisiana.

The petition of Nathaniel T. Edson respectfully shows: that he is aggrieved by a final judgment rendered by your honorable court in the case of Nathaniel T. Edson, complainant, vs. Dr. A. C. Young, in chancery, and is advised there is error therein to his prejudice.

He therefore respectfully prays that an appeal be allowed from said judgment, to operate as a supersedeas, on his giving bond with security in the sum of five hundred dollars, and for general relief.

T. A. BARTLETTE,
of Counsel.

Order.

Let the appeal be allowed as prayed for.
New Orleans, 30th June, 1857.
(Signed) THEO. H. McCALEB,
U. S. Judge.

Appeal Bond.

Filed 30th June, 1857.

Know all men by these presents, that we, Nathaniel T. Edson as principal, and Isaac T. Hinton, are held and firmly bound unto A. C. Young in the full and just sum of five hundred dollars, to be paid to the said A. C. Young, his certain attorney, executors, administrators, or assigns, to which payment well and

truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this 30th day of June, in the year of our Lord one thousand eight hundred and fifty-seven.

Whereas lately, at a circuit court of the United States 5th judicial circuit, holding sessions in and for the eastern district of Louisiana, at the city of New Orleans, in a suit depending in said circuit court, wherein N. T. Edson was plaintiff, and A. C. Young was defendant, judgment was rendered against the said Nathaniel T. Edson, pl'ff; and the said N. T. Edson having taken an appeal therefrom to reverse the judgment in the aforesaid suit, and a citation directed to the said A. C. Young, citing and admonishing him to be and appear at the Supreme Court of the United States, to be holden at Washington the first Monday of December next: Now, the condition of the above obligation is such, that if the said Nathaniel T. Edson shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his appeal good, then the above obligation to be void, else to remain in full force and virtue.

(Signed) NATH'L T. EDSON. [SEAL.]
" ISAAC T. HINTON. [SEAL.]

Sealed and delivered in the presence of—
J. W. GURLEY.

Isaac T. Hinton, being sworn, says he is worth the sum of five hundred dollars above all his debts and liabilities.

(Signed) ISAAC T. HINTON.

Sworn to and subscribed before me, this 27th June, 1857.
J. W. GURLEY,
U. S. Com'r.

UNITED STATES OF AMERICA.

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

Clerk's Office.

I, John W. Gurley, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Nathaniel T. Edson *vs.* A. C. Young, No. 2,708 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of [SEAL.] New Orleans, this 26th day of September, A. D. 1857.
J. W. GURLEY, *Clerk.*

The United States of America.

The President of the United States to A. C. Young, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a petition and order of appeal filed in the clerk's office of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, wherein Nathaniel T. Edson is appellant and you are appellee, to show cause, if any there be, why the judgment rendered against the said appellant, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this thirtieth day [SEAL.] of June, in the year of our Lord one thousand eight hundred and fifty-seven.

THEO. H. McCALEB,
U. S. Judge.